



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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### **24 VAC 20-70 – Department of Motor Vehicles Regulations Governing Requirements for Proof of Residency to Obtain a Virginia Driver’s License or Photo Identification Card**

August 19, 2002

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB’s best estimate of these economic impacts.

### **Summary of the Proposed Regulation**

The proposed changes will remove from the regulations the list of documents accepted by the Department of Motor Vehicles as proof of Virginia residency when issuing driver’s licenses, learner’s permits, commercial driver’s licenses, and photo identification cards.

### **Estimated Economic Impact**

Applicants of a Virginia driver’s license, learner’s permit, commercial driver’s license, and photo identification card are required to submit proof of residency in addition to two identification documents and a proof of social security number to the Department of Motor Vehicles (the department).<sup>1</sup> These regulations contain a list of documents that are accepted by the department as proof of Virginia residency. The proof of residency document list in the current regulations include 1) a payroll check or payroll check stub, 2) a voter registration card,

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<sup>1</sup> Proof of social security number is required from photo identification card applicants only if they want to display it on the card.

3) a W-2 tax form, 4) a bank statement, 5) a United States passport, 6) a federal income tax return, 7) a Virginia income tax return, 8) a utility bill, 9) a receipt of personal property taxes or real estate taxes paid to a locality in Virginia, 10) an automobile or life insurance policy, 11) a school, college, or university transcript, 12) a Virginia driver's license, a learner's permit, or an identification card, 13) a Virginia motor vehicle registration or a title, and 14) a residency certification.

The department indicates that the required documentation had been the target of significant abuse and fraud. For example, the residency certification was accepted as proof of residency in cases where the applicant did not have access to any of the other documents in the list. In these cases, an individual who possessed a Virginia driver's license, commercial driver's license, or photo identification card certified before a notary public that the applicant was also a Virginia resident. The department discovered that the residency document had been the subject of widespread abuse and fraud by criminal organizations and facilitators. These organizations and facilitators assisted individuals in obtaining driver's licenses and identification cards and encouraged these applicants to submit falsified residency certifications. In one of the recent cases in U.S. District Court, the facilitator was tried and convicted. The facilitator brought thousands of immigrants from New Jersey, New York, and Maryland routinely in order to obtain a Virginia driver's license or identification card by fraudulent means. Often, such individuals were able to be re-licensed in their home states. Additionally, some of the hijackers involved in the terrorist attacks on September 11, 2001 were confirmed to have Virginia driver's licenses or identification cards obtained through fraudulent means. The department believes that other documents are also subject to abuse and fraud in lieu of the residency certification especially after emergency repeal of the use of the residency certification on September 21, 2002.

Because of the evidence of unreliability and the potential for abuse and fraud, the department proposes to repeal these regulations so that proof of residency document list can be changed immediately at the administrative discretion of the agency. The primary goal of the proposed change is to provide flexibility to the department in terms of the speed with which the agency can respond to new information regarding illegal use of proof of residency documents.

The potential economic effects of the proposed change have several dimensions. One is related to the additional flexibility that will be afforded to the department. The proposed repeal

of these regulations will provide authority to the department to add new documents and remove some of the currently required documents for proof of residency without being subject to regulatory review process. Under the Administrative Process Act, the department can propose to change the required documentation list as a response to new information through an emergency regulation or a non-emergency regulation. The department believes that the time required to promulgate an emergency or non-emergency regulation introduces delays when new information such as illegal use of proof of residency documents becomes available. The agency further points out the inability to stop continuing abuse and fraud until the regulations are amended by an emergency or non-emergency regulatory action. Provided that the department always identifies the use of residency documents that are cost effective, then the additional flexibility afforded to the department in changing the list of residency documents at its discretion would likely produce net benefits to the Commonwealth. However, that may not always be the case. The review of proposed regulations either by the Department of Planning and Budget or by the public increases the chance of identifying potentially costly mistakes and producing efficient outcomes. Thus, the net economic effect of the repeal of these regulations depends on the economic value of being able to change the list of residency documentation in a shorter time span than that is possible under the Administrative Process Act for an emergency regulation and the economic value created by the review of these regulations. However, these two values cannot be assessed at this time and there is a great deal of other uncertainty in assessing the potential economic effects of the proposed change.

First, the potential economic effects of this change will depend on the specific circumstances when the department adds or removes a proof of residency document in the future. Although much cannot be said about the economic effects in each possible circumstance, in general, it appears that the primary concern is the potential threat to public safety. Photo identification cards issued by the department may be used for access to public safety-sensitive areas. This is also the case for other documents related to the operation of motor vehicles. Despite the fact that the intended use of some of the documents issued by the department is to authorize the bearer to operate a motor vehicle, they are often used as the primary form of identification in practice. Additionally, the fact that photo identification cards and driver licenses are breeder documents by which additional forms of identification can be accumulated to establish fraudulent identity, residency, or location further contributes to the risks posed to

public safety and consequently potential economic losses. These may include documents such as credit cards, bankcards, other states' driver's licenses and identification cards, and even birth certificates. Given the use of these documents as identification cards and the fact that they are breeder documents makes it impossible to assess the potential threat posed to public safety in this report. However, it is evident from the events of September 11, 2001 that such threats have the potential to change consumer behavior and expectations and significantly harm the overall economic activity in addition to the physical damages that may occur. Simply, illegal use of these documents has the potential to create a wide array of adverse economic effects through threats to public safety.

The second difficulty in assessing the potential economic effects of the proposed change is related to the method by which the residency documents are added and removed from the list. After a specific threat and associated adverse economic affects are identified, the economic benefits and costs of having the residency documents in a regulatory list or in a non-regulatory list must be determined in order to make a conclusive statement about the net economic impact. As mentioned before, the net economic effect of the repeal of these regulations depends on the economic value of being able to change the list of residency documentation in a shorter time span than that is possible under the Administrative Process Act for an emergency regulation and the economic value created by review of these regulations. Since both of these values cannot be measured and cannot be compared at this time, the net economic effect of this proposed change is not known.

Moreover, the economic effects of this proposed change depend on the types of additional documents that will be accepted and not accepted as proof of Virginia residency in the future. Currently, the department is reevaluating the residency documents and may eliminate or may add new documentation as acceptable proof of Virginia residency.

The proposed changes will also eliminate an inconsistency between the regulations and the Code of Virginia regarding the residency certification. Pursuant to passage of HB 638 and SB 162 in the 2002 General Assembly, effective July 1, 2002, the department is no longer authorized to accept the residency certification as a proof of Virginia residency. As mentioned above, the department is aware of significant abuse and fraud of the residency certification. However, partly because the department did not keep track of supporting documents and partly

because the issue is still under investigation, there is no available quantitative assessment of how much abuse and fraud of residency certification may have occurred.

Prior to being statutorily repealed, the residency certification was a convenient way especially for refugees and asylees who often cannot furnish other accepted documentation immediately upon arrival to establish Virginia residency. Without the residency certification, these individuals are believed to have some difficulty proving Virginia residency. An inconvenience is believed to be imposed on them in terms of the delay until they obtain alternate proofs of residency such as a bank statement or a utility bill. The inconvenience for non-immigrants new to Virginia was probably less significant. Their access to alternate forms of proof of residency is probably greater than that of refugees or asylees and their need for driver's licenses and identification cards is probably lower because of other types of identification documents that may already be in their possession. Minors were also affected at the time the emergency regulation to repeal residency certification was passed on September 21, 2002. At that time, minors started using school issued documents as proof of residency because it was the least burdensome alternative. This inconvenience to minors is not currently ongoing because the current statute allows parents to certify their minor child is a Virginia resident. In short, the repeal of the residency certification introduced costs associated with delays in obtaining a driver's license or identification card and having to submit alternate forms of proof of residency. Though it is likely that there may have been a reduction in the potential threats to public safety and consequently prevention of some potential economic losses by the repeal of the residency certification, there is no available information on the size of such benefits.

## **Businesses and Entities Affected**

The department estimates that the number of individuals who apply for documents that require proof of Virginia residency is 668,047 per year.

## **Localities Particularly Affected**

The proposed regulations apply throughout the Commonwealth.

## **Projected Impact on Employment**

Depending on the proposed repeal of these regulations' effect on public safety, there may be some effect on employment in the future. The direction of the potential impact on

employment will depend on whether the decisions regarding the changes in residency document list will improve public safety and consequently contribute to overall economic activity.

Similarly, the statutory repeal of the residency certification may have contributed to the employment in Virginia if it resulted a reduction in the potential threats to public safety.

### **Effects on the Use and Value of Private Property**

The proposed repeal of the residency document list has the potential to affect the use and value of private property through its effect on the threats to public safety. A positive effect is expected if the repeal of these regulations allows the department to address fraudulent use of residency documents in an expeditious and cost effective manner. Otherwise, negative effects may result.

Similarly, the statutory repeal of the residency certification may have contributed to the use and value of private property if it resulted a reduction in the potential threats to public safety.